



Federal Communications Commission  
Washington, D.C. 20554

DA 08-1636  
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Chicago Media Action  
Milwaukee Public Interest Media Coalition  
c/o Andrew Jay Schwartzman, Esq.  
Media Access Project  
Suite 1000  
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Re: Petition for Reconsideration filed  
by Chicago Media Action and  
Milwaukee Public Interest Media  
Coalition

Gentlemen:

On July 13, 2007, Chicago Media Action (CMA) and the Milwaukee Public Interest Media Coalition (MPIMC) filed a joint Petition for Reconsideration of a June 13, 2007, staff decision denying petitions to deny filed against the license renewal applications of eight broadcast television stations serving the Chicago area and 11 broadcast television stations serving the Milwaukee metropolitan area.<sup>1</sup> Responsive oppositions from various licensees were filed on or about July 26, 2007, and CMA and MPIMC filed their reply on August 6, 2007. For the reasons set forth below, we deny the petition for reconsideration.

In the petition to deny, CMA and MPIMC had argued that the television stations serving the Chicago and Milwaukee markets failed to present adequate programming relating to state and local elections during the last four weeks of the 2004 election campaign. They attached to their petitions a study entitled "2004 Campaign News Study in Chicago, Milwaukee and Portland Markets," which purported to analyze all regularly scheduled news and public affairs programming on the five highest-rated commercial stations in Chicago and Milwaukee, respectively. In denying the petitions, the staff found that the CMA and MPIMC petitions did not raise a *prima facie* issue as to whether the stations served the public interest since they failed to provide evidence that "the named licensees exercised their editorial discretion in bad faith."<sup>2</sup> The staff stated, in particular, that the quantity of one type of programming does not necessarily indicate that the television programming in Chicago and Milwaukee has generally been unresponsive.

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<sup>1</sup> *Chicago Media Action and Milwaukee Public Interest Media Coalition*, 22 FCC Rcd 10877 (2007).

<sup>2</sup> *Id.* at 10879.

In their respective Petitions for Reconsideration, CMA and MPIMC assert that the staff, by claiming it did not have the authority to review the broadcasters' programming decisions, applied the wrong legal standard to its allegations, and that the staff failed to consider or evaluate the numerical data contained in the study attached to the petitions. They also cite a new study released by the University of Wisconsin-Madison Newslab ("Newslab Study") on June 12, 2007, which they assert "provides further evidence of the Broadcasters' failure to provide programming that meets the needs and interests of the communities of license."<sup>3</sup> Among other findings, the Newslab Study found that the Chicago and Milwaukee markets aired 29 seconds and 36 seconds, respectively, of election coverage during a typical 30-minute newscast from September 7, 2006, to October 6, 2006. The Newslab Study further concluded that, during this same period, the Chicago market "aired, on average, 2 minutes and 2 seconds of election coverage compared to 3 minutes and 57 seconds of political advertising;" while the Milwaukee market "aired, on average, 1 minute and 41 seconds of election coverage compared to 2 minutes and 52 seconds of political advertising."<sup>4</sup>

The various opposition pleadings respond that the petition for reconsideration essentially reiterates legal issues advanced and rejected in the June 13, 2007, staff decision. They note generally that the original study focused on a narrow time-frame and a single issue that did not indicate that the licensees' overall programming was unresponsive to community needs and interests, and they further argue that the Newslab Study suffers from the same defects as the original. Most of the oppositions argue that the June 13, 2007, letter did not establish unfettered and unreviewable editorial discretion for broadcast licensees, and that CMA and MPIMC's intention to establish quantitative requirements for broadcasters to cover specific local issues is best raised in a rule making proceeding and not in the context of the individual stations' license renewals. In a reply pleading, CMA and MPIMC continue to insist that the staff applied the wrong standard to assess their claims, and in doing so put the right of broadcasters to program their stations over the right of the viewing public to receive programming that meets their needs and interests.

**Discussion.** The allegations contained in the Petition for Reconsideration do not warrant reversal of the June 13, 2007, staff decision. In contrast to the assertions of CMA and MPIMC, the June 13, 2007, staff decision did not preclude review of a broadcaster's editorial discretion, but instead found, consistent with precedent, that CMA and MPIMC had failed to provide evidence that the broadcasters had exercised their discretion in "bad faith." The staff correctly concluded that the study, even assuming the data contained therein, did not demonstrate that "television programming in Chicago and Milwaukee has generally been unresponsive."<sup>5</sup>

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<sup>3</sup> Petition for Reconsideration, at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Chicago Media Action and Milwaukee Public Interest Media Coalition*, 22 FCC Rcd at 10879.

The Newslab study added one new category of programming, non-election government news coverage aired during the early and late evening newscasts from January 1, 2007, to March 31, 2007. This new study, however, again fails to demonstrate that the named licensees' programming has *generally* been unresponsive. The Newslab study does not provide any information concerning programming, election or otherwise, on stations other than the major network affiliates. It also focuses on the early and late evening local news broadcasts of these affiliates, and thus does not provide a comprehensive analysis of the programming aired on these stations.

Having failed to show either a material error or omission in the June 13, 2007, staff decision,<sup>6</sup> the Petition for Reconsideration filed by Chicago Media Action and Milwaukee Public Interest Media Coalition IS DENIED.

Sincerely,

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<sup>6</sup> We need not determine here whether the June 12, 2007, Newslab study constitutes "new facts" or "circumstances" sufficient to support a petition for reconsideration since the data in the new study does not alter our ultimate determination the June 13, 2007, staff decision was consistent with established precedent and policy. See 47 C.F.R. §1.106(c)(1).

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